



## Nicaragua

### Country Reports on Human Rights Practices - [2001](#)

Released by the Bureau of Democracy, Human Rights, and Labor

March 4, 2002

Nicaragua is a constitutional democracy, with a directly elected president, vice president, and unicameral legislature. In November voters elected Enrique Bolanos Geyer of the Liberal Constitutionalist Party (PLC) as President in a generally free and fair election; he defeated Daniel Ortega of the Sandinista National Liberation Front (FSLN) and is scheduled to take office on January 10, 2002, when the term of President Arnoldo Aleman, also of the PLC, expires. In the legislative elections, the PLC won 52 seats in the National Assembly, the FSLN won 37, and the Conservative Party won 1 seat. In accordance with the electoral law, the outgoing President and the runner-up in the most recent presidential elections automatically occupy seats in the National Assembly. Thus, the PLC holds 53 seats in total; the FSLN has 38 and the PC has 1. The Supreme Electoral Council (CSE) is an independent fourth branch of government. In 2000 a series of political accords between the governing PLC and the FSLN, although highly controversial, ceded the FSLN more power in several governmental institutions in exchange for the avoidance of the use of violent protests to achieve political ends. FSLN leaders largely refrained from using or threatening the use of violence during the year. The Constitution provides for an independent judiciary; however, the judiciary is susceptible to political and financial influence.

The president is the supreme chief of the national defense and security forces. President Aleman established the first-ever civilian defense ministry upon his inauguration in 1997. The Ministry of Government oversees the National Police, which is charged formally with internal security; however, the police share this responsibility with the army in rural areas. The National Police continued to reduce the role of voluntary police (private citizens contracted by the National Police to help fill staffing gaps) in law enforcement. The civilian authorities generally maintained effective control of the security forces. Some members of the security forces committed human rights abuses.

The country has a population of approximately 5.2 million. It is an extremely poor country, with an estimated per capita gross domestic product (GDP) of less than \$500. The economy grew at 4.3 percent in real terms in 2000, but the rate declined in 2001. Real GDP growth rate for the year is estimated at 3 percent but the Government may lower the rate to 2.5 or 2 percent growth. The estimated annual rate of inflation was less than 10 percent, marking the third consecutive year of single digit price increases. While the Government estimated that unemployment is less than 11 percent, unofficial estimates of unemployment and underemployment remain as high as 40 to 50 percent. Economic growth was limited due to a worldwide drop in coffee prices, the lack of an adequate legal framework, a fragile banking system, and unresolved property disputes and unclear land titles stemming from massive confiscations by the Sandinista Government in the 1980's. The economy is predominantly agricultural; coffee, seafood exports, sugar, beef, and some light manufacturing are the key sectors. The country continued to have a precarious balance of payments position and remained heavily dependent on foreign assistance and remittances from citizens living abroad.

The Government generally respected many of its citizens' human rights; however, serious problems remained in some areas. Members of the security forces committed 15 reported extrajudicial killings at year's end. Police continued to beat and otherwise abuse detainees. There were allegations of torture by the authorities. Prison and police holding cell conditions remain harsh, although overcrowding improved somewhat. Security forces arbitrarily arrested and detained citizens; however, the number of such reports decreased during the year. The Government effectively punished some of those who committed abuses; however, a degree of impunity persisted. Lengthy pretrial detention and long delays in trials remain problems; however, the judiciary has made efforts to reduce the large case backlog. The judiciary is subject at times to political influence and corruption. The Supreme Court continued its structural reform program for the judicial system. The weakness of the judiciary continued to hamper prosecution of human rights abusers in some cases. A new Journalist Guild Law raised concerns regarding freedom of the press. The Human Rights Ombudsman continued to

make publicized recommendations during the year that openly challenged the policies of the Aleman administration; the Ombudsman publicly attributed significant budget reductions for his office to these criticisms. Violence against women, including domestic abuse and rape, remained a problem. Discrimination against women is an ingrained problem. Violence against children is a problem and child prostitution continued. Discrimination against indigenous people also occurred. Child labor remained a problem. Concern over violation of labor rights in free trade zones continued. There were reports of trafficking in women and girls for the purpose of sexual exploitation.

The civil war formally concluded in June 1990 with the demobilization of the Nicaraguan Resistance (RN, or "Contras"). However, the rule of law and basic infrastructure do not extend to all rural areas. Despite the Government's disarmament campaigns, many citizens, especially in rural areas, are heavily armed. Marauding criminal gangs, some of which claimed political agendas, continued to be a problem in the mountainous regions of the north, as well as on the Atlantic coast.

## RESPECT FOR HUMAN RIGHTS

### Section 1 Respect for the Integrity of the Person, Including Freedom From:

#### a. Arbitrary or Unlawful Deprivation of Life

There were no reports of political killings by government officials; however, the police registered 15 allegations of extrajudicial killings by police, 3 of which were dismissed for lack of evidence.

The Inspector General's Office of the National Police received 15 reports of police killing of an alleged criminal and 88 instances in which police seriously wounded criminal suspects while attempting to arrest them. The Inspector General automatically remands to the court system for review cases in which police use deadly force; however, the courts often take considerable time to process these cases (see Section 1.e.). The police do not make a final decision on cases sent to the courts until the courts respond with a verdict. While the police await the decisions from the courts, the Inspector General's office normally applies a mild punishment, such as suspension or confinement to precinct. Of the 63 cases the Inspector General remanded to the courts during the year, there were no reports of case adjudication.

On January 17, police officials in Managua detained Pedro Antonio Castro Baltodano for robbery. The Nicaraguan Association for Human Rights (ANPDH), a nongovernmental organization (NGO), reported that he was arrested and brought to jail where police officers, particularly by officer Silvio Gutierrez, beat him so severely that he began to vomit blood. The police officials delivered Baltodano to his sister, Azucena Castro Baltodano, claiming that he inexplicably had become sick while in custody. Azucena Baltodano took her brother home, but he continued to vomit blood. On January 19, she took him to a local hospital where he died. The doctor reportedly informed Azucena Baltodano that her brother died as a result of severe beatings. The police dispute this allegation and assert that Silvio Gutierrez is not even enlisted in the police force. There was no investigation.

On May 15, members of the Boaco police formed a blockade on the Pancasan highway to stop a hijacked bus that was taken over by Denny Blandon and three unidentified assailants. When the bus arrived at the blockade, the assailants in the bus began shooting at the police and rammed the bus through the police blockade. The police returned fire while pursuing the bus and captured the assailants several miles behind the blockade. One of the assailants was injured in the leg. One hour later a second passenger bus was approaching the area where the police had captured the assailants, and police officers signaled the bus to slow down. However, the bus did not slow down. The police suspected that the second bus was also hijacked, although it was not, and opened fire on the bus. The bus crashed into a tree and the passengers subsequently took cover in nearby bushes. Voluntary police officer Eugenio Jose Treminio Ruiz believed that one of the passengers leaving the bus was a hijacker and followed him to the bushes. Treminio approached the passenger, Noel Antonio Flores Montoya, robbed his watch, and then shot him. When other voluntary police officers saw this, Treminio threatened to kill them if they told others about the shooting. Flores was brought to a hospital in Matagalpa. He lost an eye as a result of the shooting. The police reported that they are covering the medical expenses of Flores. The police immediately terminated the contract of the involved voluntary police officers, and Treminio was sent to court on criminal charges. At year's end, the court had not issued a ruling. The police officers overseeing the operation received administrative sanctions, including a demotion and mandatory overtime without compensation.

In late 2000, police officers Juan Ramon Velasquez and Leonel Antonio Velasquez were tried and found guilty for the August 2000 killing of Javier de Jesus Solorzano Hernandez. However, the judge gave them a light sentence. The police internal affairs separated the officers from the police force immediately following the guilty ruling.

No charges were filed against the police officers involved in the April 2000 shooting of former resistance member Mauricio Mendoza in Muelle de Los Bueyes, the Southern Atlantic Autonomous Region (RAAS) (see Section 5). After the police investigation determined that the killing of Mendoza during a violent demonstration was in self-defense, former resistance members decided not to pursue a case against the involved police officers.

The policemen involved in the 1999 killing of Pedro Gonzalez Talavera in Villa Sandino, Chontales, were acquitted and transferred to another precinct in late 2000.

In 1997 the Government negotiated the disbandment and disarmament of over 1,200 members, a majority of them former contras, of the "Northern Front 3-80" and promised them food, clothing, seeds, and small plots of land. It also disarmed 423 members of the proSandinista "Andres Castro United Front" (FUAC). Despite these successful disarmaments, armed bands, including former members of the 3-80 Front and FUAC, engaged in murder, kidnaping for ransom, and armed robbery in the north and north-central regions. FUAC members have alleged that they were acting in opposition to the Aleman administration. However, law enforcement groups, human rights organizations, and political analysts described the political motivations as tenuous and stated that most of these actions were purely criminal in nature.

In April FUAC-related gangs killed and beheaded several persons whom they suspected of being associated with the governing PLC. In May the FUAC ambushed a police convoy and wounded an estimated 20 policemen, including a local police chief. In response, a combined police-military counterinsurgency campaign was launched that resulted in the killing of the primary FUAC leader, Jose Luis Marengo, and several other group members in late July, and sent the rest of the group fleeing into the densely forested Bosawas natural reserve.

In April one police officer was killed when police confronted protesters (see Section 2.b.).

#### b. Disappearance

There were no reports of politically motivated disappearances.

#### c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The law makes the use of torture a punishable crime; however, police continued to beat and otherwise abuse detainees. There were numerous credible reports that police beat or physically mistreated detainees, often to obtain confessions. During the year, the ANPDH received 95 complaints of torture or degrading treatment by the authorities, compared with 70 in 2000. The Permanent Commission on Human Rights (CPDH) received 120 cases of police abuse, and the Nicaraguan Center for Human Rights (CENIDH) reported 15 related cases. The Inspector General's office recorded 186 complaints of physical abuse by police, including those submitted by the ANPDH and others, and found 61 to have merit. The Inspector General sanctioned 86 officers in these cases. Among the complaints were 88 instances in which police seriously wounded criminal suspects while attempting to arrest them.

At year's end, the police dishonorably discharged 32 officers.

The National Police have reduced the law enforcement role of voluntary police who are private citizens who are contracted by the National Police on a volunteer basis to help fill staffing gaps in several precincts. The National Police provide them with a uniform, and in some cases, with a gun, at the discretion of the police chief. Voluntary police do not receive a salary from the state, and do not receive any professional training. Due to sustained criticism of voluntary police for their involvement in human rights violations, in August 2000, former chief of police Franco Montealegre approved a new police statute terminating the employment of all voluntary police in Managua. Government authorities report that as of October, there still were 2,170 voluntary police located throughout the country; several were implicated in human rights abuses during the year (see Section 1.a.).

While the inspector general's office investigated allegations of abuse and sanctioned the offenders in many cases, a degree of impunity persisted. Inadequate budget support for the National Police also hampered efforts to improve police performance and resulted in a continuing shortage of officers. However, the police were provided with extensive training during the year, much of it through international assistance programs.

The Inspector General's office received a total of 464 complaints of human rights violations by police officers during the year, including complaints forwarded by the Office of Civil Inspection for Professional Responsibility, and found 143 of these cases to have merit. The Inspector General's office sanctioned a total of 201 officers

for violations of human rights. Of those sanctioned, 32 officers were discharged dishonorably, and 63 were remanded to the courts; the rest received lesser punishments, including demotion, suspension, and loss of pay.

On April 4, William Rodriguez Valle reported that police officials in Cua Bocay shot and wounded his brother, Aquilino Rodriguez, for unknown reasons. Aquilino Rodriguez was detained on a warrant because of personal problems with Lucas Zambrana, a police informant. Voluntary police officer, Santiago Hernandez Perez, is suspected of being responsible for the shooting. Although there was no official judicial sentence, the police authorities shortened the contract of the voluntary police officer.

On January 20, Managua police officer Francis Luz Arias Arauz shot and wounded 1-year-old Roger Noel Hernandez Maltez and 9-year-old Joel David Torrez Garcia with a pistol. According to the CENIDH investigation, police officer Arias ran past Hernandez's house in pursuit of robbers. The officer fell and her weapon fired, hitting the two boys, Roger and Joel, who were watching from their house. The police officer was suspended from duty for negligence, and the case was submitted to the local court. The judge ruled that the shooting was an accident. Arias was acquitted of all charges and allowed to rejoin the police force. The police department volunteered to take care of the children's medical expenses at the local hospital.

On June 8, five police officers shot Roberto Solorzano Chamorro and Giovanni Alvarez Chamorro while trying to intercept the two cousins in a car chase. According to police reports, police officers Juan Carlos Barrera Serrano, Harlyn Enrique Herrera Lopez, Edwin de Jesus Medina Fitoria, Juan Jose Calderon Garcia, and Oscar de Los Angeles Cajina Mora were pursuing the men because the two were suspected of having robbed a bank earlier that morning. The police also claimed that one of the cousins pulled out a gun and began to fire at the police officers, at which time the officers returned fire and wounded the two subjects. However, the CENIDH investigation alleged that Giovanni entered a bank only to change a \$100 bill while his cousin Roberto had to wait outside because he was carrying a firearm. When Roberto tried to enter the bank to inquire why his cousin was taking so long, the security guard immediately called the police who arrived while Roberto and Giovanni were leaving the bank in their car. The police began to pursue them and upon interception fired shots at the two without provocation. CENIDH reported that neither man fired at the police. In late September the police reported that the Solorzano family dropped the case against the officers for unknown reasons.

On April 4, two police officers were involved in the shooting of 16-year-old Geovany Artola Vargas at a high school in Tipitapa. According to police reports, Tipitapa police had two arrest warrants issued against Artola--one for murder and another for assault and robbery. Officer Gerald Jose Espinoza and another police officer found Artola at the neighborhood high school and proceeded to make the arrest. Artola, resisting arrest, attacked the policemen with a machete. Espinoza then began to beat Artola with the back of his pistol and shot him. According to the forensic report, Artola was shot in the back at close range, but the bullet did not cause bone or organ damage. The case was sent to the local court for a hearing. Espinoza was released after 10 days in detention; at year's end, Artola remained in jail waiting to be tried for the outstanding charges of murder and robbery.

On June 12, police officer Miguel Angel Zapata Gomez shot and wounded his neighbor, Bartolo Perez Rodriguez during an argument in Boaco. Perez's son, Jose Rodriguez, appeared at the scene of the crime and screamed that Zapata had killed his father, although the father was still alive. Zapata, in an attempt to silence the son, shot and wounded him. The case immediately was reported to the local police, and officers were dispatched to detain Zapata. Perez and his son were taken to a hospital in Boaco. Zapata was taken to court, but the judge dismissed the case for lack of evidence. Zapata was allowed to rejoin the police force.

On June 17, police officer Bismark Laguna shot gang members Juan Carlos and Lenin Calderon Mendoza in San Isidro, Matagalpa, while trying to break up a fight between police officers and a neighborhood gang. According to National Police records, two voluntary and three regular police officers were patrolling the streets when they stopped at a neighborhood block party to prevent local gang members from disturbing the peace. The gang resisted the orders of the police to leave the party and entered into a fight with the policemen. Police officer Laguna, who was off duty, arrived on the scene, took the gun of a voluntary police officer, fired shots at Juan and Lenin and wounded them critically; they did survive the incident. Laguna was held in detention awaiting trial at year's end.

In May Casa Alianza reported that a court had sentenced police officer Romell Davila Gutierrez to 4 months imprisonment for the severe beating of a homeless child, Wilfredo Quintanilla (age 14 at the time) in September 2000.

The investigation of the March 2000 alleged police beating of Jesus Ramon Olivas Espinoza remained pending at year's end.

In June several demonstrators were wounded when police used tear gas and rubber bullets; the demonstrators reacted violently (see Section 2.b.).

Various NGO's provide the police and the army with human rights training (see Section 4).

Prison conditions remained harsh, but improved somewhat during the year. The Supreme Court (CSJ), the National Police, the Attorney General, the Department of Prisons, and several human rights organizations continued to work together during the year to significantly reduce the number of prisoners who spent 6 months or more of incarceration without a trial (see Section 1.d.). The initiative helped to alleviate overcrowded prisons. As of September, none of the eight correctional facilities maintained prison populations higher than those allowed by U.N. Conventions on the treatment of prisoners. According to government statistics, the prisons had a total inmate population of 5,060 in November, compared with 4,903 in September 2000; the official capacity is 5,132. Detainees are held separately from convicted prisoners. The ANPDH worked with the director of prisons in an effort to ensure that prisoners were released in a timely fashion when their sentence had been served or they were granted parole (see Section 1.e.).

Prison guards received human rights training from NGO's and the Catholic Church and generally treated prisoners well, although there were some reports of abuses. There were no reports of riots or other violence during the year.

The prison system remained underfunded and medical attention ranged from inadequate to nonexistent. Medical care available to prisoners fell far short of basic needs. For example, for all 8 penitentiaries and 5,060 prisoners, prison authorities only maintained a staff of 22 specialists, including doctors, psychologists, teachers, and social workers. Prison authorities also reported that 33 percent of prisoners remained without beds, some prisoners sleep on concrete beds or floors. Several churches and national and international NGO's donate foodstuffs, beds, and medicine to the prison system to help alleviate shortfalls.

Prison officials calculated that the daily expenditure per prisoner for food was about \$0.50 (6 cordobas) and reported that the annual budget for food remained constant. There was some improvement in prison food, but malnutrition remained a problem in local jails and police holding cells. Many prisoners also received additional food from visiting family and friends. Some prisons and many police holding cells were dark, poorly ventilated, and unhygienic.

Conditions in jails and holding cells remained harsh. Police station holding cells were severely overcrowded. Suspects often were left in these cells during their trials, since budgetary shortfalls often restricted the use of fuel for frequent transfers to distant courtrooms. At the Bluefields jail, there were only 2 showers and 4 toilets for more than 102 prisoners. At the Corn Island jail, six cells each holding six detainees frequently were filled to capacity. The authorities occasionally released detainees when they no longer could feed them.

Only Managua has a separate prison for women; outside the Managua area, women were housed in separate wings in prison facilities and were guarded by female custodians. As of September, females made up 4 percent of the prison population. The Public Defender's office assigned two full-time employees to work with the women's prison system to help ensure its proper functioning in such areas as timely release of inmates granted parole.

As of September, 2 percent of the prison population were between the ages of 15 and 18, compared with 3 percent in 2000 and 4 percent in 1999. All youths were housed in separate prison cells from adults; the youths are on a different time schedule for mealtime and recreational activities.

In November Casa Alianza reported that the country had no closed detention center for children under the age of 16, and that the police had been locking up children in inhuman situations, in many cases playing the role of judge and jury. Casa Alianza alleged that while there were few cases of the children being beaten by the police wardens, the children were locked in often totally dark, overcrowded cells for weeks or months at a time. Casa Alianza Nicaragua and the Ombudsman's Office were completing an investigation into the situation year's end. The Director of Prison Systems said that children are held in separate cells and that their rights generally are respected.

The Government permits prison visits by independent human rights monitors.

#### d. Arbitrary Arrest, Detention, Or Exile

Arbitrary arrest and detention by the police remains a problem. The Police Functions Law requires police to obtain a warrant prior to detaining a suspect and to notify family members within 24 hours of the detainee's

whereabouts. During the year, the police authorities received fewer reports of arbitrary arrests and illegal detentions as compared with previous years. Compliance with this law has increased significantly since 1999, largely due to pressure from the police internal affairs office and support for compliance from the chief of police. Detainees do not have the right to an attorney until they have been charged formally with a crime. Local human rights groups are critical of the law for providing inadequate judicial oversight of police arrests.

Police may hold a suspect legally for 48 hours before they must bring the person before a judge to decide if charges should be brought. The judge then either must order the accused released or transferred to prison. Although cumbersome, this law was observed more closely than in the past, and few prisoners were held illegally beyond the 48-hour deadline (see Section 1.c.).

During the year, the ANPDH received 62 complaints of illegal arrest and arbitrary detention, compared with 155 in 2000. Of those cases sent to the police inspector general's office by the ANPDH and other human rights organizations, 2 complaints were found to merit investigation and 21 remained under investigation at year's end.

An interinstitutional effort comprised of the CSJ, the National Police, the Department of the Penitentiary System, and several human rights organizations significantly reduced the number of prisoners with 6 months or more of incarceration without a trial. Specifically, in February 2000, the penal bench of the CSJ passed an order to all local magistrates to give priority to those cases involving pretrial prisoners with 6 months or more of incarceration. According to government statistics, as of November, only 2 percent of the 5,060 prisoners had been in jail for 6 months or longer without a trial; in 2000 an estimated 4 percent of the prison population experienced an unusually long delay before their court hearing.

Exile is not practiced. There were no reports of political violence against any citizens returning from civil war era self-imposed exile.

#### e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary; however, the judiciary is susceptible to corruption and political influence. The judiciary is hampered by arcane legal codes; prosecutors who play a passive role; an underfunded, and understaffed defender's office; judges and lawyers who often lack sufficient training or education; and corruption. In the past, many judges were not lawyers. Judges' political sympathies or acceptance of bribes reportedly often influenced judicial actions and findings.

The judicial system comprises both civil and military courts. The 16-member Supreme Court is the system's highest court, and in addition to administering the judicial system, also is responsible for nominating all appellate and lower court judges. The Court is divided into specialized chambers on administrative, criminal, constitutional, and civil matters. Under the Law of the Child and Family, which took effect in 1998, the attorney general's office rather than the police investigates crimes committed by and against juveniles. The 1994 military code requires the civilian court system to try members of the military charged with common crimes.

A 5-year administration of justice reform program, begun in 1997, continued during the year. A Judicial Organic Law, which took effect in January 1999, contains a provision establishing minimum professional standards for judicial appointees. The Supreme Court commission supervising the revision of the country's outdated criminal codes and procedures continued its work, in coordination with the National Assembly's judicial commission. Reform of these codes is intended to reduce judicial delays and resulting excessive pretrial detention (see Section 1.d.). In 2000 the Assembly began the process to approve a new draft Criminal Code; however, the Assembly still must approve each chapter of the draft Criminal Code before it can go into effect. In November the National Assembly approved a Criminal Procedures Code, which is not expected to enter into effect until November 2002. In 1999 the National Assembly approved a reform of the Public Ministry's office that streamlined the judicial process by separating the defense and the prosecution functions. Specifically, the reform transferred powers from the National Attorney General to a newly created State Defense Attorney's Office, which is charged with defending the Government against legal action taken by private or other public actors. In November the National Assembly elected Julio Centeno Gomez, the former National Attorney General, as the new State Defense Attorney.

In July 2000, the Government opened new property tribunals to handle cases concerning seized properties (see Section 1.f.).

Although the civil and criminal courts made significant progress in expediting the judicial process for those in prison without a prior court hearing, human rights and lawyers' groups in general continued to complain about the delay of justice, sometimes for years, caused by judicial inaction.

Judges appeared susceptible to corruption and political influence. The shelving of politically charged cases or ruling in favor of the politically connected party remained the most common manifestations of judicial corruption. For example, in May 2000, Alejandro Carrion McDonough, the brother of Army Commander General Javier Carrion McDonough, allegedly killed farmer Pablo Absalon Leal Aguirre in Masaya over a water dispute. The family of Leal took the case to the police and judicial authorities, but in spite of an arrest warrant, the police never apprehended Alejandro Carrion. Following a series of lower court decisions in 2000 on September 7, the CSJ acquitted Carrion. The Leal case was passed the Inter-American Court of Human Rights for review. At the end of 2000, the CSJ removed the judge who was involved in the Leal case.

The Supreme Court continued its campaign to reduce incompetence and corruption in the judiciary. According to a CSJ report released in May, the Judicial Inspector's office received 1,120 official complaints against lawyers, judges, and judicial functionaries in 2000, but action was taken against only 3 judges. Of the three sanctioned judges, one was removed and another was demoted in 2000. The judge who was removed from the bench was involved in the murder case of Pablo Absalon Leal Aguirre. Since the campaign began in 1997, the CSJ has removed a total of 105 judges--more than one-third of the 300 judges in the system.

In criminal cases, the accused has the right to legal counsel, and defendants are presumed innocent until proven guilty. The Judicial Organic Law provided for the establishment of a public defender's office to represent indigent defendants. The office in Managua maintained a staff of 13 appointed public defenders throughout the year; however, more are needed. The court has requested funding for 26 additional public defenders to be located outside of Managua. Elsewhere in the country where public defenders have not been available, the system in effect before the passage of the Judicial Organic law continued in use. Under that system, the presiding judge appoints attorneys from a standard list to represent indigent defendants, but, because they are not paid by the state, many attorneys have paid a fine of about \$8.30 (100 cordobas) rather than represent such clients.

According to the ANPDH, despite difficulties in implementing fully the provisions of the Judicial Organic law, the number of indigent defendants who went to trial without an attorney to represent them decreased significantly. However, high-ranking officials in the public defender's office complained that they continued to encounter blatant judicial corruption and the willingness of several judges to sentence defendants without a public defender present.

Under the Napoleonic legal system, a trial does not consist of a public hearing. Instead, there is a desk review by a magistrate of the file of the accused. An initial hearing usually is held within the constitutionally mandated 10 days. Although very simple cases or those with high profile or outside interest may be resolved quickly, many languish for months. Due to a lack of administrative coordination between judges and the penal system, many prisoners have remained in prison after their scheduled release date (see Section 1.c.). The CSJ has tried to alleviate the problem by issuing instructions to prison authorities to release prisoners immediately upon the return of an innocent verdict. In addition, the ANPDH worked with the Director of Prisons during the year in an effort to ensure that prisoners were released in a timely manner after serving their sentence or being granted parole.

Despite improvements to the criminal law system, the country still lacks an effective civil law system. As a result, cases more properly handled in a civil proceeding often are transmuted into criminal proceedings. One party then effectively is blackmailed, being jailed due to action by the party wielding greater influence with the judge. In addition, this heavy civil-based criminal caseload claims attention from an overburdened public prosecutor's office and diverts resources that otherwise could be directed toward genuine criminal matters.

There were no reports of political prisoners.

#### f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The Constitution provides for protection against these abuses, and the Government generally respected these provisions in practice. The Constitution stipulates that all persons have the right to privacy of their family and to the inviolability of their home, correspondence, and communications; requires warrants for searches of private homes; and excludes from legal proceedings illegally seized letters, documents, and private papers.

Since the early 1990's, the Government has provided an administrative process for compensation for massive confiscations of private property by the Sandinista government in the 1980's. This compensation generally is considered insufficient, since it is based on the property's taxable value rather than market value, and makes no provision for lost profits or interest from the date taken. Furthermore, compensation is paid in 15-year bonds, which sell at about 19 percent of face value.

A 1997 law intended to improve options for those whose property was taken by the Sandinistas provided for the establishment of new property tribunals with procedures that include mediation, binding arbitration, and expedited trials. After numerous delays, the new property tribunals finally started accepting cases for filing in 2000. The tribunals' administrative offices are fully staffed and mediators and arbitrators have been appointed and are conducting proceedings. As of July, the tribunals reported that 317 cases had been filed. Of these, 184 had passed through the mediation process, 40 of which (22 percent) were settled through mediated settlement agreements. When mediation was not successful, the cases were moved on to arbitration or were returned to district courts for expedited trials. As of July, 44 cases had gone to arbitration but none had completed that stage.

The tribunals receive property cases passed to them by the regular courts and, upon conclusion of mediation or arbitration, return the final decision to the appropriate regular court, which is to issue a court order containing the terms of the final mediation or arbitration results. Most confiscated property claimants using the judicial system do not elect arbitration because the arbitrators are costly; most cases not successfully mediated return to district courts for trial. However, property confiscations from the Sandinista era still are considered legal, as are subsequent transfers of the property to third parties, as long as the confiscations were conducted according to the law at the time. For those whose land was "legally" confiscated and distributed, the only recourse is accepting compensation bonds, which nearly universally are considered inadequate.

## Section 2 Respect for Civil Liberties, Including:

### a. Freedom of Speech and Press

The Constitution provides for freedom of speech and of the press, and the Government generally respects these rights in practice. However, several constitutional provisions potentially qualify freedom of the press. The 1987 Constitution stipulates that citizens have the right to accurate information, thereby providing an exception by which the freedom to publish information that the Government deems inaccurate could be abridged. Although the right to information cannot be subject to censorship, there is retroactive liability established by law, defined as a social responsibility, implying the potential for sanctions against irresponsibility by the press. Although the legislature did not modify these provisions in the 1995 constitutional reforms, the Government has not invoked these provisions to suppress the media. A new Journalist Guild Law raised concerns regarding freedom of the press.

The Inter-American Press Association (IAPA) reported that during 1999, members of the pro-Sandinista Union of Nicaraguan (UPN) and leaders and members of the pro-liberal Association of Nicaraguan Journalists (APN) attempted to revive legislation to establish a professional journalists' guild. The journalistic community was divided sharply over whether such a law would improve the quality of journalism or merely restrict freedom of speech and of the press.

In January the National Assembly sent a proposed Journalist Guild Law to President Aleman. He vetoed 30 of the 50 articles contained in the proposed law. The remaining 20 articles were either contradictory or meaningless, as they related to the vetoed articles. The President stated that he vetoed the provisions to correct the law's many contradictions, to prevent its violation of the Constitution, and to protect freedom of the press.

The President then sent a counterproposal back to the National Assembly for ratification, which contained stringent guidelines to govern the profession of journalism in the country. On March 6, the National Assembly approved the law unanimously. The vagueness of language concerning the Government's role in establishing and regulating journalists' salaries, and its possible role in governing a professional journalists' association--and thereby journalism itself in the country--remained a concern to many observers. The law also contains clauses that deem uncredentialed journalists to be vagrants, subject to fine if caught practicing their profession. Some journalists believe that the law was passed to discourage them from pursuing their usual style of campaign reporting in an election year, which is investigative, accusatorial, and sensational.

The law was to take effect with stipulations that formation of the guild occur within 3 months. However, the ruling commission that would structure the journalists' guild never was established due to conflicts between journalist associations whose members were to be grandfathered into the guild. The commission was composed of the APN and the UPN. The APN believed that the law should be revised; however, the UPN had the majority of members and considered the law to be acceptable. Due to the continuing gridlock between rival journalist associations, the law has had no practical consequence. The IAPA expressed concern about the possible effect on press freedom of a provision in the new draft criminal code approved by the Judicial Commission of the National Assembly that would increase the possible penalties for libel and slander (see Section 1.e.).



The privately owned print media, the broadcast media, and academic circles freely and openly discussed diverse viewpoints in public discourse without government interference. News media covered a series of scandals and allegations of government corruption very openly and without restriction.

The IAPA continued to report that the Government directed a disproportionate amount of total government advertising in the print media to publications favorable to the Government and denied certain tax benefits provided to other media businesses to a newspaper critical of the Government. For example, the IAPA reported that La Noticia, a newspaper that supports the Aleman administration, received 45 percent of the Government's expenditures for official notices in the print media, although its market share of circulation is only 2 percent. The leftist-leaning El Nuevo Diario, which had depended on a substantial amount of its revenue coming from government-purchased space prior to Aleman's presidency, largely was cut off by the Aleman administration during the year.

The media and political analysts severely criticized President Aleman for his harsh verbal attacks on local journalists when they posed questions that he did not want to answer.

The news medium with the largest national audience is radio, but polls show that television is the primary source of news in the cities. There are 117 chartered radio stations in the country; listeners receive a wide variety of political viewpoints, especially on the 67 stations based in Managua. There are seven Managua-based television stations, six of which carry news programming, often with noticeable partisan political content. In addition, there are 60 cable television franchises that offer services in most large and medium-sized cities.

The Government does not place restrictions on the use of the Internet.

Academic freedom is respected.

#### b. Freedom of Peaceful Assembly and Association

The Constitution recognizes the right to peaceful assembly without prior permission, and the Government generally respects this right in practice. However, the Constitution also recognizes the right to public assembly, demonstration, and mobilization in conformity with the law, and the law requires demonstrators to obtain permission for a rally or march by registering its planned size and location with the police. The authorities routinely granted such permission, but many groups chose not to register: they claimed that the process was too cumbersome.

On April 24, riot police dislodged protesters in Mulukuku who wished to have the area declared a municipality. During the confrontation one police officer was killed, and one protester wounded.

In June clashes between police and rioters protesting bus fare hikes led the wounding of several demonstrators and the arrest of 16 persons. Police fired tear gas canisters and rubber bullets at the demonstrators, who retaliated with stones and crude pipe bombs.

The Constitution provides for the right to organize or affiliate with political parties, and the Government generally respects this right in practice. Opposition and independent associations functioned freely without government interference or restriction. Private associations do not have legal status to conduct private fund raising or receive public financial support until they receive authorization from the National Assembly, which it routinely confers.

#### c. Freedom of Religion

The Constitution provides for freedom of religion, and the Government generally respects this right in practice.

The Government's requirements for legal recognition of a church are similar to its requirements for other NGO's (see Section 2.b.). A church must apply for "Personeria Juridica" (legal standing), which must be approved by the National Assembly. Following Assembly approval, a church must register with the Ministry of Government as an association or a foundation.

The Roman Catholic Church is not an official state religion; however, it enjoys a close relationship with the secular Government. The Roman Catholic Church is the most politically active religious denomination and has significant political influence. Catholic Church leaders routinely meet with senior government officials. The historical position of the Church is such that most religiously affiliated monuments and memorials are Catholic-related. However, the predominance of the Catholic Church does not impact negatively on the religious

freedom of others.

#### d. Freedom Of Movement within The Country, Foreign Travel, Emigration, And Repatriation

The Constitution provides for the right to travel and reside anywhere in the country and to enter and exit the country freely, and the Government generally respects these rights in practice. In 1998 the Government abolished a requirement that citizens and residents obtain an exit visa to leave the country. However, on February 17, a foreign resident was denied exit from the country because of his involvement in a private suit, even though no judicial order of retention had been placed. The right of citizens to return to the country is not established in the Constitution, but in practice the Government has not restricted anyone's return.

At year's end, the CSJ still had not decided on the legality of the Government's May 2000 decision to nullify the citizenship application of former Minister of Defense, Jose Antonio Alvarado. However, in June the Supreme Electoral Council effectively disqualified Alvarado from the November national elections on the basis of his citizenship status without waiting for a final ruling from the Supreme Court (see Section 3).

The Government cooperates with the office of the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees. The Constitution provides for asylum, and refugees cannot be expelled to the country that persecuted them. The issue of the provision of first asylum did not arise.

There were no reports of the forced return of persons to a country where they feared persecution.

#### Section 3 Respect for Political Rights: the Right of Citizens to Change Their Government

The Constitution provides citizens with the right to change their government peacefully, and citizens exercise this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. National elections were held in November.

The 1995 reforms to the 1987 Constitution established a more equal distribution of power and authority among the four coequal branches of government. The president heads the executive branch and a cabinet appointed by the president, who is both head of state and head of government, as well as supreme chief of the defense and security forces. The vice president has no constitutionally mandated duties or powers. Both the president and vice president are elected to 5-year terms by direct popular vote, with the possibility of a runoff election between the top two candidates if one does not obtain at least 35 percent of the vote on the first ballot. The Constitution does not permit the president to hold consecutive terms in office.

A single-chamber National Assembly exercises legislative power. In 1996 voters chose 93 members, including 20 deputies from nationwide lists, 70 from lists presented in each of the 15 departments and the 2 autonomous regions, and 3 defeated presidential candidates who obtained a minimum percentage of the national vote. Members elected concurrently with the President and Vice President in 1996 are scheduled to complete their 5-year terms on January 9, 2002.

The Supreme Electoral Council is an independent fourth branch of government. In January 2000, the National Assembly approved constitutional amendments supported by the leadership of both the governing PLC and the opposition FSLN. Key elements of the legislation included a change in the requirements that a presidential candidate must meet to avoid a second-round runoff election; expansion of the Supreme Court from 12 to 16 judges; expansion of the CSE from 5 to 7 magistrates; an automatic assembly seat for the outgoing president; a requirement for a two-thirds majority vote in the assembly, rather than the previous qualified majority vote, to remove presidential immunity from prosecution; and the replacement of a single controller general with the a 5-person collegial body charged with investigating allegations of wrongdoing or financial malfeasance by government officials. The legislation provided for election of the president and the vice president in the first round of voting if one political party wins at least 40 percent of the vote, or if one party wins at least 35 percent of the vote and the party in second place is more than 5 percentage points behind the front-runner. In addition, a party loses its legal status if it obtains less than 4 percent of the vote in a general election. The latter provision greatly reduced the number of parties eligible to field candidates in the November general elections--only 3 national parties competed in the elections, compared with over 20 parties in the 1996 elections.

In November generally free and fair national elections were held under the auspices of the CSE, an independent branch of government. Voters elected Enrique Bolanos Geyer of the PLC as president with 56 percent of the vote; Sandinista competitor Daniel Ortega received 42 percent. In the legislative elections, the ruling PLC alliance won 52 deputy seats, the FSLN won 37, and the PC won 1 seat. In accordance with the electoral law, the outgoing President and the runner-up in the most recent presidential elections automatically occupy seats in the National Assembly. Thus, the PLC alliance holds 53 seats in total, the FSLN has 38, and

the PC has 1. Preliminary CSE reports and public opinion polls indicated that over 90 percent of eligible voters are registered; the CSE also announced that 94 percent of eligible voters cast ballots. Over 12,000 national and international observers declared the elections generally free and fair, despite some logistical and organizational problems. However, on November 8, Daniel Ortega alleged that irregularities in vote counting reduced the number of seats that his party received in Parliament, and the Conservative Party stated that the two main parties were trying to exclude them from parliament. Roberto Rivas, the President of the CSE, stated that he had requested increased police protection after receiving threats.

The percentage of women, indigenous people, and other minorities in government and politics does not correspond to their percentage of the population, although there are no legal restrictions on their participation. Women served as president and vice president until January 1997, and a woman served as president of the CSE until January. Additionally, 3 of 16 Supreme Court justices are female; women hold ministerial, vice ministerial, and other senior positions in government; and voters elected 21 women to the National Assembly in November. Two members of the National Assembly claim indigenous heritage.

The CSE oversees regional elections and works to increase indigenous participation (see Section 5).

#### Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

With some exceptions, human rights groups operated without government interference. Major organizations included the CPDH, the ANPDH, and the CENIDH. The ANPDH, the CENIDH, the CPDH, and the Catholic Relief Services continued to conduct human rights workshops at the police training academy, at various police headquarters, and with army units throughout the country. Some military officers received internationally sponsored human rights training.

In March 2000, Amnesty International reported that the Government had accused CENIDH President Vilma Nunez de Excorcia of obstructing police. In June 2000, Amnesty International reported that she had received telephone threats to her life. Nunez alleged that the death threats were because she spoke out against government complicity in alleged army-ordered killings of FUAC leaders. When she asked the police to investigate, they concluded that her charges were unfounded and closed the case.

On May 18, the NGO Mission of Observers for Defense of Human Rights visited the country with representatives from the International Federation of Human Rights (IFDH) to evaluate the treatment and influence of local human rights organizations, including that of CENIDH. The IFDH team concluded that the Government does not adequately protect human rights organizations from abuse or mistreatment by government entities. With regard to Nunez's allegations, the IFDH determined that the Government violated her basic liberties.

In September Amnesty International published an Open Letter to the Presidential Candidates, in which the NGO described its main concerns regarding human rights in the country as: Threats and criticism directed against human rights defenders and NGO's by governmental authorities; torture, ill-treatment, and excessive use of force by the police; prison conditions; interference by persons with political power and a pattern of threats against sections of the media reporting on cases of corruption in government circles; and a lack of sufficient resources for the PDH.

The Organization of American States (OAS) Technical Cooperation Mission (TCM) focuses on the 13 municipalities affected most adversely by the decade-long civil war and works on conflict resolution, reconciliation, improving local government, and extending legal infrastructure. The TCM and Catholic Relief Services help maintain more than 200 peace commissions in the northern and central parts of the country, intended to give inhabitants of the area a means of dispute resolution, a means of monitoring human rights abuses, and a vehicle for expressing their concerns to government authorities. Many of the commissions operate in areas that are without any governmental presence and serve as surrogates for absent police and courts. The Government granted legal standing to additional such grassroots organizations during the year. Some peace commission members initially reported that soldiers, rural police, and local residents sometimes misunderstood their efforts at advocacy on behalf of jailed criminals, interpreting them as challenges to law enforcement officials' authority. However, during the year, the commissions continued to report increased support from all elements of the societies they serve, including law enforcement.

The Human Rights Ombudsman's Office (PPDDH), the only autonomous government-financed human rights office, continued to focus on filling staffing gaps and organizing its scope and activities. A 1995 law created the PPDDH, with the Ombudsman to be elected by the Assembly; however, it was not until 1999 that the National Assembly elected Benjamin Perez, formerly the head of the Assembly's Human Rights Commission, as the country's first Ombudsman and Julian Corrales as Deputy Ombudsman. Perez relied on the participation of

most local human rights organizations to select the Special Ombudsmen for Children's Issues, Women's Issues, and Indigenous Affairs. In December 2000, he selected the Special Ombudsman for Indigenous Affairs, Rev. Norman Bent. The PPDDH began to investigate actively human rights violations during 2000. Perez continued to demonstrate independence from the Aleman Administration. However, the Aleman Administration cut by nearly 40 percent the state budget of the Ombudsman's office, seemingly for political reasons, and the reduced operating budget has limited the effectiveness of the office and its ability to establish offices throughout the country.

#### Section 5 Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status

The Constitution prohibits discrimination on the basis of birth, nationality, political belief, race, gender, language, religion, opinion, national origin, economic condition, or social condition; however, in practice the Government made little or no effort to combat discrimination. Few, if any, discrimination suits or formal complaints were filed with government officials.

#### Women

The most prevalent violations of women's rights involved domestic and sexual violence, which were widespread and underreported. The National Police reported that of 39,423 reports filed by women between January and August, more than 13,468 concerned physical or sexual abuse; an increase in the number of reported cases from 2000.

The 1996 Law against Aggression against Women reformed the Criminal Code to criminalize domestic violence and to provide up to 6 years' imprisonment for those found guilty of such violence. The law also provided for the issuance of restraining orders in cases in which women fear for their safety. The National Police, as well as local human rights groups, have confirmed that while police sometimes intervene to prevent domestic violence, they rarely prosecute perpetrators because victims often refuse to press charges. Those cases that actually reached the courts usually resulted in not guilty verdicts due to judicial inexperience with, and lack of legal training related to, proper judicial handling of such violence.

The Criminal Code provides punishment for sexual abuse and stipulates that any person convicted of physically abusing or raping another person can be sentenced to between 9 months and

4 years in prison. According to statistics from the National Police, the police received 1,170 rape complaints during the year. In 2000 there were 1,181 reported instances of rape. Many women are reluctant to report abuse or file charges due to the social stigma attached to victims of rape.

The police manage 18 women's commissariats in 14 cities. Each commissariat is located adjacent to a police station and is staffed by six police officers, two social workers, one psychologist, and one lawyer. However, due to a lack of funding, the staff size is often limited to a far smaller number. The commissariats provide both social and legal help to women and mediate spousal conflicts.

In 1999, with the help of the CENIDH, Zoilamerica Narvaez filed a complaint with the IACHR against her stepfather, FSLN leader, National Assembly Deputy, and former President Daniel Ortega

(a candidate in the November general election) accusing him of sexual molestation and harassment. The case publicized the problems of incest, rape, and women's rights and also highlighted the issue of immunity from prosecution for parliamentary deputies. In 1999 the IACHR officially opened a case in response to Narvaez's complaint and advised the Government that it would be required to respond to the charges; in September 2000, the Government responded that the claims made by Narvaez were unfounded and merited no further investigation. The Government argued that the State did not violate her constitutional rights because the legislative and judicial branches gave her case due consideration. On October 19, the IACHR decided to accept the Narvaez case and was investigating it at year's end. A formal hearing is scheduled for March 2002. On December 12, Ortega renounced his congressional immunity from prosecution to face Narvaez's charges. However, on December 19, Judge Juana Mendez dropped the rape charges against Ortega on the grounds that the 5-year statute of limitations, which began when Narvaez filed her complaint in 1999, not his December renunciation of immunity, had run out. Narvaez appealed the decision, and the case was pending in the courts at year's end.

Prostitution is legal and common. In Managua most prostitutes work on the streets, clandestinely in nightclubs and bars, or offer sexual services in massage parlors. In towns along the Pan American Highway, women and girls sell sexual services to truck drivers and other travelers, who are often foreigners driving north from Costa Rica. In port cities such as Corinto, the primary clientele are sailors. Corinto is unusual in that prostitutes

receive medical examinations and a card certifying their health if they are free of disease. In addition, prostitutes in Corinto reportedly often work together to maintain a rudimentary price-setting structure that enabled them to earn much more than they would in other areas. However, in most areas, prostitutes do not have access to medical screening or treatment.

There were credible reports that some women were trafficked for prostitution (see Section 6.f.).

The law prohibits sexual harassment in the workplace; however, it continued to be a problem.

Although the Constitution provides for equality between the sexes, discrimination against women persists. According to a poll released in April 2000, women comprise approximately 61 percent of the public labor force, a number much larger than in the private sector. It also showed that even with comparable educational backgrounds, salaries for male and female workers differ significantly, with men sometimes making twice as much as women in the same positions. Even with similar qualifications, men advance more quickly than women. Women constitute the majority of workers in the traditionally low-paid education and health service sectors. According to a 1998 report, women have equal or somewhat better access to education than men, especially in urban areas.

Women are generally underpaid, but the majority of women have some type of employment. The International Labor Organization (ILO) released a study in October on women in the labor force. It concluded that of the 561,000 employed women, 184,000 are self-employed and 377,000 are salaried workers. When comparing these figures with those of a 2000 U.N. Development Program (UNDP) report, the total number of women employed represents a large majority of women who are capable of working. More than 92 percent of women capable of employment have some type of job.

There are many NGO and government programs that target discrimination against women, mostly by analyzing the status of women in the workplace. The Program for Reform and Modernization of the Public Sector, directed by the Vice President, collects statistics on salary differences and hiring techniques in the public sector, thereby publicizing the issue of discrimination. However, it is unclear what measures have been taken to counteract such discrimination in practice.

#### Children

The Government expresses its commitment to children's human rights and welfare publicly but does not commit adequate funding levels to children's programs or primary education. A constitutional provision known as the 6 percent rule automatically allots 6 percent of the annual budget to a higher education consortium, often at the expense of funding for primary and secondary education programs. Children 18 years of age and younger made up approximately 53 percent of the population. A 1995 study showed that as many as 40 percent of all children are not registered officially. Education is compulsory through the sixth grade, but this provision is not enforced. The study also indicated that 45 percent of children do not attend school. Primary school enrollment rates for boys and girls are estimated at 73 and 75 percent, respectively; secondary school enrollment rates are 39 and 47 percent.

Children increasingly were involved in crime both as victims and as perpetrators. From 1993 to 1997, offenders under the age of 17 increased from approximately 1.5 percent to approximately 15 percent. During the year, 51 minors died as a result of violent crime. During the same period, victims of rape included 227 children under the age of 13 and 585 between the ages of 13 and 17. There were an estimated 2,820 reported cases of child abuse (physical and psychological), 10 cases of the kidnaping of children, and 95 children who disappeared. It is estimated that about 63 percent of sexual abuse victims are under the age of 18, and that 36 percent are younger than 13. Over 676,000 children are at-risk and exposed daily to violence, abuse, exploitation, and neglect. According to UNICEF, this number is expected to increase because the population of children under the age of 5 years who live on the streets is increasing.

According to local media and the Ministry of the Family, the incidence of child prostitution increased, especially in Managua, and near border cities and ports. Although national figures are not available, a study conducted in Managua in 1998 found that 40 percent of the 1,200 prostitutes in the city were under the age of 18. No numbers were available for other cities, but in 1998 UNICEF reported that teenage sexual exploitation had increased in recent years in rural areas, border cities, ports, and in Managua. UNICEF also noted significant growth in prostitution among children between the ages of 12 and 16 in towns where taxi drivers were said to serve as middlemen. OAS personnel in the country also noted an increase in prostitution among girls as young as 10 years of age; in rural areas, their clients are often truck drivers and other travelers, including foreigners, who patronize prostitutes in towns along the Pan American Highway. From December 1998 to May 1999, the Ministry of the Family sponsored an investigation into child prostitution in five municipalities. Of the more than 300 children surveyed, 82 percent reported that they had started engaging in prostitution within the past year.

Many of those surveyed said that they engaged in prostitution to buy basic necessities such as food and clothing, or to support a drug habit. A 1999 survey by the NGO Casa Alianza reported that of 520 children, 504 admitted to using drugs, usually glue. There have been cases of adults who exchange sexual favors with street children in return for glue. In 1999 a National Forum against the Sexual and Commercial Exploitation of Children and Adolescents was created to fight for children's rights and bring this issue to the public attention; however, it failed to take any actions during the year.

The Child and Family Law, which took effect in late 1998, provided that juvenile prisoners could no longer be held in adult facilities or for more than 24 hours without being charged (see Section 1.c.). However, implementation of the new law proved problematic.

Child labor is a problem (see Section 6.d.).

The First Lady has established several commissions on children's issues. Mrs. Aleman headed the National Council for the Protection of Children and the National Council for the Eradication of Child Labor.

#### Persons with Disabilities

In 1998 the Ministry of Health created a National Council for Rehabilitation to address the needs of the 600,000 citizens with some type of disability, only 3 percent of whom receive medical treatment. Through its clinics and hospitals, the Government provides care to war veterans and other disabled persons, but the quality of care is generally poor. However, with assistance from international NGO's, foreign governments, and the public health care system, the Government has procured thousands of prostheses and other medical equipment for veterans and former resistance members.

Despite some efforts, the Government's past role in helping the disabled is minimal and often has been criticized. It has not legislated or otherwise mandated accessibility to buildings for the disabled. In the spring of 2000, the Ministry of the Family announced that it would cut a considerable amount of financial support for the Blue Bird Protection Association that shelters about 100 persons with disabilities, aged from 10 months to 40 years old, who are considered unable to care for themselves. Although the Ministry agreed to cover a significant percentage of the Association's budget, its failure to do so forced the Association's employees to go without pay, and resulted in a significant decrease in medicinal, clothing, and food supplies. Many organizations that help the disabled called for the Government to focus more attention on the needs and interests of persons with disabilities.

The 1995 Law to Protect Disabled People states that companies are obligated to contract persons with disabilities, that such disabilities cannot affect their salaries, and that disabled persons must be considered equal to other workers. However, representatives of the Danish Association of Disability have noted that this law rarely is put into practice. In the past 2 years, this organization has implemented a program called Prodinic, with the objective of strengthening the country's disabled associations by assisting 20 different groups in Managua, Masaya, Leon, Juigalpa, and Esteli. This group is lobbying for easier access to transportation and travel for the disabled throughout the country.

#### Indigenous People

Indigenous people constitute approximately 5 percent of the country's population and live primarily in the Northern Autonomous Atlantic Region (RAAN) and Southern Autonomous Atlantic Region. The RAAN and the RAAS, which were created in 1987 out of the former department of Zelaya and which border the Caribbean Sea, constitute 47 percent of the national territory. Based on 1998 information from the Center for Investigation and Documentation of the Atlantic Coast and other sources, the 4 major identifiable tribes are the Miskito (with approximately 100,000 members), the Sumo (10,000), the Garifuna (3,000), and the Rama (1,000).

In an effort to encourage indigenous participation in Atlantic coast regional elections held in 1998, the CSE distributed electoral and civic education materials in four languages, including Miskito and Sumo. The CSE plans to hold another round of Atlantic coast regional elections in March 2002. The indigenous people of the RAAN, primarily the Miskito and the Sumo, have a political organization known as Yatama, which has representation in regional and municipal councils. There is also an armed faction of the same name; the extent to which the two groups are linked is not clear. Like many armed groups operating since the end of the civil war, the Yatama groups combine banditry with a genuine desire to force the Government to devote more resources to their underdeveloped region. However, two factors differentiate the armed groups in the RAAN from those that have operated elsewhere in the country. First, most participants in these groups are Amerindians who long have seen themselves as having a separate culture. Second, drug trafficking and drug money on the Atlantic coast have become far more pervasive than elsewhere in the country. The total strength

of Yatama armed groups was estimated at 210 men.

In 1999 President Aleman signed a disarmament agreement with representatives of the Yatama armed groups. In return, the Government made a number of promises to the Miskitos including land to fighters who turned in their arms, support for housing for Yatama-affiliated families, agricultural credits, protection of traditional Amerindian fishing rights, and resolution of long-standing disputes over the boundaries of communal Miskito land. However, these provisions had not been implemented at year's end, which led to threats of remobilization by the Yatama groups.

The CSE ruled in August 2000 that the Yatama political party did not meet the qualifications to participate in the November 2000 municipal elections; however, it was allowed to compete in the November national elections (see Section 3).

The 1987 Autonomy Law requires the Government to consult indigenous people regarding the exploitation of their areas' resources; however, indigenous people claim that the central government often made decisions without adequate community consultation. In September the IACHR determined that the Government violated the human rights of the Awas Tingni (Sumo) Community by granting logging licenses to foreign companies on indigenous communities' ancestral lands without consulting the communities. The Commission ruled that the country's legal protections for indigenous lands were "illusory and ineffective" and ordered the Government to establish new legal mechanisms to demarcate the traditional lands of all indigenous communities in the country. The Ministry of Agriculture, the Office of Property Affairs in the Ministry of Finance, the regional authorities on the Atlantic Coast, and the Special Ombudsman for Indigenous Affairs are in the process of forming a commission to create new legal mechanisms, but no concrete actions had been taken by year's end. As in previous years, some indigenous groups complained that central government authorities excluded the indigenous people of the Atlantic coast from meaningful participation in decisions affecting their lands, cultures, traditions, and the allocation of natural resources.

Government health care exists in the Atlantic towns of Puerto Cabezas, Siuna, and Bluefields, but a majority of indigenous people in rural areas have no access to modern health care. Critics of government policy cited extremely high unemployment rates, but calculation of reliable employment statistics was complicated because most of the working indigenous population on the Atlantic coast is engaged in subsistence fishing, farming, and mining.

#### National/Racial/Ethnic Minorities

Most citizens are of mixed background, and ethnicity is not a barrier to political or economic success. However, various indigenous groups from both the RAAN and the RAAS sometimes linked the Government's failure to expend resources in support of the Atlantic coast population to the existence of ethnic, racial, and religious (principally members of the Moravian church) minorities that predominate in that region.

### Section 6 Worker Rights

#### a. The Right of Association

The Constitution provides for the right of workers to organize voluntarily in unions, and the new Labor Code that entered into effect in 1996 reaffirmed this right. The ILO has criticized various provisions in the Labor Code that remain below international standards. All public and private sector workers, except those in the military and the police, may form and join unions of their own choosing, and they exercise this right extensively. The Labor Code permits the existence of more than one union, representing the same group of workers, at any place of employment. To become a union, a group of at least 20 persons must petition the Ministry of Labor for legal status and the right to engage in collective bargaining (see Section 6.b.). The Labor Code legally recognizes cooperatives, into which many transportation and agricultural workers are organized. Representatives of most organized labor groups criticize these cooperatives, and assert that they do not permit strikes; have inadequate grievance procedures; are meant to displace genuine, independent trade unions; and are dominated by employers. According to the Ministry of Labor, approximately 15-16 percent of the work force is unionized. Union membership continued to decrease during the year. Unions are independent of the Government, although many are affiliated with political parties.

The Constitution recognizes the right to strike; however, legal strikes are rare. The Labor Code requires a majority vote of all the workers in an enterprise to call a strike. The Labor Code requires that before a union may strike, it must first receive approval from the Labor Ministry. To obtain approval, the union must go through a process that requires good faith negotiation with management. The Labor Ministry asserts that it would take approximately 6 months for a union to go through the entire process to be permitted to have a legal

strike. Observers contend that the process is inappropriately lengthy and so complex that there have been only three legal strikes since the 1996 Labor Code came into effect; however, there have been several illegal strikes (see Section 6.b.).

The Labor Code prohibits retribution against strikers and union leaders for legal strikes. However, this protection may be withdrawn in the case of an illegal strike. Workers involved in illegal strikes often lose their jobs.

The Labor Code provides protected status to union leaders, requiring that companies receive permission from the Ministry of Labor after having shown just cause to fire union executive board members. Such protection is limited to nine individuals per union. However, the Labor Code allows businesses to fire any employee, including union organizers, provided the business pays the employee double the normal severance pay. Business leaders sometimes use this practice to stymie unionization attempts.

Unions freely form or join federations or confederations and affiliate with and participate in international bodies.

#### b. The Right to Organize and Bargain Collectively

The Constitution provides for the right to bargain collectively, and the 1996 Labor Code reaffirmed this right. The Government generally sought to foster resolution of pressing labor conflicts (usually in the public sector) through informal negotiations rather than through formal administrative or judicial processes. According to the 1996 code, companies engaged in disputes with employees must negotiate with the employees' union if the employees are thus organized. However, the possible existence of more than one union at any place of employment means that several unions, each with different demands, can coexist at any one enterprise. Similarly, management may sign collective bargaining agreements with each union.

There are 34 enterprises operating in the government-run free trade zones (FTZ), employing approximately 30,000 workers; labor laws apply equally in the FTZ's, except for the minimum wage which varies by industry. In addition, there are 4 authorized private FTZ's; the 10 enterprises in these zones employ some 11,000 workers. Approximately half the workers in the government-run FTZ are represented by a union organization; however, only about 10 percent of them are actual union members. While some of these unions have real collective bargaining power, others are primarily symbolic. The Ministry of Labor reports that there were eight collective bargaining agreements in effect in the FTZ's and five in the negotiation process. Union organizing efforts have encountered strong employer opposition in the FTZ's.

There have been several allegations of violations of the right to organize, primarily at the Las Mercedes FTZ, the largest in Managua, with 15 enterprises and approximately 26,000 workers. The Ministry of Labor has investigated these allegations and has concluded that employers have acted within the law, taking advantage of the extensive administrative requirements necessary to declare a strike legal (see Section 6.a.). Notwithstanding the legality of employer actions, the result has been to weaken significantly an important union in the FTZ, the Sandinista Workers Central (CST). The CST has declared several strikes without first exhausting the very lengthy and complex administrative process of getting the required majority of the workers (see Section 6.a.). Consequently, the Ministry of Labor consistently has ruled the strikes illegal. Employers then fire the striking workers based on the Ministry's ruling.

In essence, employers have taken advantage of the extensive administrative requirements required to declare a strike legal and the CST's failure to follow the prescribed rules.

In April 2000, the representatives of the CST tried to obtain authorization from the Ministry of Labor to go on strike at Chentex, a Taiwanese-owned textile factory, for its failure to honor the terms of its collective bargaining agreement. Negotiations broke down because the CST sought to increase the factory's minimum salary from \$62 to \$115 (800 to 1,500 cordobas) per month, an increase which fell below the Government's estimate of 1,600 cordobas per month for a basic basket of goods (see Section 6.e.). After 50 CST workers participated in a work stoppage, management requested and received permission to fire 11 of the 13 CST board members based on participation in an illegal strike. All of the dismissed members filed an appeal before the labor court, which subsequently found that the workers had been fired properly. The CST then appealed that finding to an appellate court. In addition, scores of workers were fired while many others resigned to show their support for the fired board members.

The CST organized a series of work stoppages leading to the occupation of the factory in May 2000. Chentex then filed criminal charges against the nine board members for damaging property, kidnaping management personnel, and injuring security persons during the takeover. Chentex later filed a petition to have the CST's legal status dropped because after the firings and resignations, they failed to meet the legal minimum of



members.

In April an appellate court ruled that the CST board members had been fired improperly. Soon thereafter, Chentex and the CST signed an agreement that provided that Chentex would rehire 4 of the 11 fired board members. The remaining seven received backpay, double severance, vacation pay, and a bonus of approximately \$1,130 (15,000 cordobas). In addition, Chentex agreed to rehire 17 other fired CST workers and to drop all ongoing litigation. As agreed, Chentex rehired the four board members. However, within 1 month, all four CST board members had left the factory. In exchange, Chentex gave each the same severance package as the other seven, who were not rehired. Although the agreement called for the rehiring of 17 non-board members, Chentex and the CST could find only 4 of these who were willing to return to work. These four also have left, allegedly because the CTN workers did not welcome them. The CST's membership at Chentex now falls below the 20 required to be certified, and the CST is no longer a workable union at the factory.

In January 2000, Mil Colores, a textile factory, asked the Ministry of Labor for permission to fire 50 workers as a money-saving measure. Included in the request were 26 of 34 workers who had petitioned in that same month to certify the CST union. The Ministry granted the factory's request to fire the workers and at the same time denied the CST's request because, once the 26 workers were fired, the CST would count only 8 workers as members and therefore would fail to meet the 20-member minimum requirement for certification. The CST alleged collusion between the Ministry and Mil Colores, specifically, that the factory's request to fire the workers was backdated to precede the attempt to form a union. This led to further dismissals and a violent confrontation between workers and security guards and police; 30 persons were injured and 5 were arrested. Shortly thereafter, the company filed criminal charges against 68 workers for involvement in the incident. The president of Mil Colores subsequently dropped all charges and came to an agreement with the CST to rehire dismissed workers on a case-by-case basis. By the beginning of the year, Mil Colores had rehired several CST workers and the CST union had been certified. However, the leader of the CST union resigned from his position abruptly and left the factory. Several others also resigned. By December the CST union at Mil Colores fell below the number required for certification and was decertified by the Ministry of Labor.

Other than the labor dispute at Chentex, which was not resolved until May, there were no other significant labor disputes this year.

In response to longstanding complaints by union representatives that the Ministry of Labor poorly enforced the Labor Code in the FTZ's, in 1997 the Ministry opened an office in the Managua FTZ to ensure that the code was being enforced. FTZ officials claim that, due to memories of the corrupt and ineffective unions of the 1980's, many workers in the FTZ enterprises simply have no interest in unionizing. They also claim that wages and working conditions in FTZ enterprises are better than the national average. For example, some FTZ enterprises assert that they pay wages that average over \$192 (2,400 cordobas) per month, three times the minimum wage.

#### c. Prohibition of Forced or Compulsory Labor

The Constitution prohibits forced or compulsory labor but does not specifically address forced or bonded labor by children, and such practices occur. The Ministry of Labor continues to report that some children were forced to beg by their parents, and that some were rented by their parents to organizers of child beggars (see Sections 6.d. and 6.f.). There were reports during the year of trafficking in women and girls for the purpose of sexual exploitation (see Section 6.f.).

In July 2000, the Labor Ministry investigated charges of forced labor at a textile factory located outside the FTZ, but operating under the same rules and enjoying the same tax incentive as FTZ companies. The inspector verified that some 34 workers had begun work at 7:00 a.m. the previous day and still were working at 10:00 a.m. the next day when the inspector arrived--a total of 27 hours. The company produced signed documents from the workers stating that they had agreed voluntarily to work extra hours. Privately, the workers stated that they had signed the document for fear that they would be fired if they refused. Moreover, they understood that they would work only 2 extra hours. Although there is no evidence that the company made any threats, the fact that all 34 workers who were requested to work overtime agreed to do so indicates that the workers believed they would be fired if they refused. The workers were only provided with a piece of bread and a bottle of soda during the night that they spent at the factory. The human resources manager who allowed the inspector into the factory subsequently was fired. The Ministry of Labor issued the company a warning and threatened heavy fines and possible closure if the problem recurred. There were no other similar incidents during the year.

#### d. Status of Child Labor Practices and Minimum Age for Employment

The Constitution provides for the protection of children's rights and prohibits child labor that can affect normal

childhood development or interfere with the obligatory school year; however, child labor is a problem. Comprehensive labor legislation protects children up to the age of 18. The Constitution also provides protection from any type of economic or social exploitation. The law prohibits child labor in areas such as mines and garbage dumps and imposes heavy fines for illegal employment. The 1996 Labor Code raised the age at which children may begin working with parental permission from 12 to 14 years. Parental permission to work also is required for 15- and 16-year-olds. The law limits the workday for such children to 6 hours and prohibits night work. However, because of the economic needs of many families, a cultural legacy of child work among peasants, and lack of effective government enforcement mechanisms, child labor rules rarely are enforced except in the small formal sector of the economy.

There are no reliable figures regarding the number of working children, but the Government reports that child labor occurs in both urban and rural areas. The latest official figures estimate that approximately 292,488 children are employed; CENIDH estimates that there are approximately 322,000 working children. Over 140,000 children are employed in rural areas at coffee, tobacco, rice, and banana plantations. In Managua over 6,000 children work on city streets, selling merchandise, cleaning automobile windows, or begging. According to a 1998 UNICEF report, approximately 42 percent of children between the ages of 6 and 9 work. A 1996 study by the National Commission against Child Labor concluded that over 161,000 children between 10 and 19 years of age worked, including approximately 109,000 employed in rural areas such as coffee, tobacco, rice, and banana plantations. The study found that 6,219 children worked in urban areas as beggars, or self-employed car washers or parking attendants. The Ministry of Labor continues to report that some children were forced to beg by their parents, and that some were rented by their parents to organizers of child beggars. Child prostitution is a serious problem (see Section 5).

The Ministry of Labor established an inspection unit to monitor occupational safety and health in the agricultural sector, signed agreements with nightclubs and restaurant owners who pledged to comply with labor laws and issued a resolution in 1999 prohibiting employment of minors specifically in the FTZ's. However, child labor occurs due to most families' need of extra income.

The Ministry of Family sponsors several programs that target working minors. These programs, which cover up to 10,000 children nationwide, include childcare services, return-to-school programs, and technical and vocational training. The programs also include training for parents and teachers. The Ministry of the Family, in conjunction with the Ministry of Education, established a program—known as the Traffic Light Plan—to keep 647 children off city intersections where they wash windshields, sell fruit, or beg for money from motorists stopped at red lights. The program provides housing for the 75 percent of these children who are homeless and schooling for the 60 percent who are school dropouts. The Ministry of Family reports that out of 600 children in the Traffic Light Plan, 498 (or 83 percent) returned to school. The remainder returned to the intersections to work.

In September the Government ratified ILO Convention 182 on the elimination of the worst forms of child labor; most of its provisions already were incorporated into the Labor Code. The Convention took effect in June.

#### e. Acceptable Conditions of Work

The minimum wage is set through tripartite (business, government, and labor) negotiations and must be approved by the Legislative Assembly. A different minimum wage applies to each sector of the economy. A new minimum wage scale took effect in February, over 1 1/2 years after the last increase, although by law it must be revisited every 6 months. With some exceptions, such as the fishing and government sectors which remain unchanged, the new monthly minimum wage schedule increased wages for all sectors by approximately 12 percent: agriculture, \$47 (642 cordobas plus food); fisheries, \$51 (700 cordobas); mining, \$145 (1,970 cordobas); industrial manufacture, \$75 (1,016 cordobas); electric, gas, and water utilities, \$97 (1,320 cordobas); construction, \$118 (1,608 cordobas); restaurants and hotels, \$95 (1,290 cordobas); transportation, \$97 (1,322 cordobas); banking, \$86 (1,172 cordobas); community and social services, \$70 (947 cordobas); central and municipal government (includes health and education employees), \$40 (550 cordobas); and FTZ \$71 (960 cordobas). The minimum wage does not provide a decent standard of living for a worker and family. With the exception of the mining sector, the minimum wage falls below the government estimate of what an urban family must spend each month for a basic basket of goods (\$135, or 1,832 cordobas). The majority of urban workers earn well above the minimum rates.

The Labor Code incorporates the constitutionally mandated 8-hour workday; the standard legal workweek is a maximum of 48 hours, with 1 day of rest weekly. The 1996 code established severance pay at from 1 to 5 months, depending on the duration of employment and the circumstances of firing. However, persons fired for cause may be denied severance pay through a process that requires employers to demonstrate proof of worker misconduct. The code also established an employer's obligation to provide housing to employees who are assigned temporarily to areas beyond commuting distance.

The Labor Code seeks to bring the country into compliance with international standards and norms of workplace hygiene and safety, but the Ministry of Labor's Office of Hygiene and Occupational Security lacks adequate staff and resources to enforce these provisions. The code gives workers the right to remove themselves from dangerous workplace situations without jeopardy to continued employment.

In May a court ordered several foreign companies to pay more than \$1 billion (13.5 billion cordobas) to banana workers who had been exposed to insecticides from 1968 to 1983.

f. Trafficking in Persons

The law prohibits trafficking in persons; however, the country is a source for trafficking in women and children for purposes of sexual exploitation. There are reports that procurers from Mexico induce young persons to travel there on the promise of legitimate employment; however, upon their arrival, they are sold to the owners of brothels and then forced to work as prostitutes to repay their debts upon arrival. There were reports in the past that children were trafficked to Guatemala by organized crime rings for the purposes of prostitution. In July 1999, the media reported that Nicaraguan girls had been lured to Guatemalan clubs to work as dancers and waitresses but upon arrival were forced into prostitution.